

RPS

8 MAR 1978

MEMORANDUM FOR: Assistant for Information, DDA

FROM: James H. McDonald
Director of Logistics

SUBJECT: Intelligence Charter Legislation, S. 2525

REFERENCE: Multiple adse memo fr [redacted] Associate
Director - Management, NFAC, dtd 23 Feb 78,
same subj (NFAC 729-78) (OL 8 0766)

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1. This Office has completed its review of the "issues paper" attached to the reference memorandum. Except for those items specifically addressed herein, we have no comments or suggestions to make on the other questions.

2. The following responses are keyed to the issue numbers:

Number 3: We agree with the definition of "proprietary" as set forth in 3b.

Number 10: We believe your reference is to Section 413 (g)(2). Section 411 specifically states that this "Agency shall be under the direction and control of the National Security Council (NSC)." The charter legislation appears to be sufficiently clear that the Agency will be under the direction and control of NSC. The Director of National Intelligence (DNI) receives his direction from NSC. To add "under the direction of NSC" would seem redundant. This addition in Section 413 (g)(2) might bring into question under whose direction the provisions in the other paragraphs are to be carried out.

Number 13: Paragraph 413 (g)(5) as worded seems sufficient to provide for the support of the Office of the Director of National Intelligence. In the category of administrative support is included: security, personnel, communications, logistics, training, medical

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services, and finance activities. Even if the DNI and the Director of Central Intelligence (DCI) is not the same individual, support to the Office of the DNI can be provided under the provision of this paragraph without any difficulty.

Number 16: We concur in the recommendation and the language of a new subsection 413 (i). However, it would appear that the subsection is out of sequence if left to the end of paragraph 413. We suggest a new subsection 413 (g)(5) and the (5) becomes (6). Remove the word "above" from line 3 of the proposed paragraph.

Number 18: We concur in the recommended changes suggested for inclusion in Section 421 (a)(6).

Number 21: Management of property, including its disposal within the continental limits of the United States, is adequately covered in the Federal Property and Administrative Services Act of 1949, as amended. However, we suggest that a new subsection 421 (a)(18) address the disposal of foreign excess property as follows:

"Dispose of foreign excess property by destruction, abandonment, or by donation, sell, or transfer to a foreign government notwithstanding any other provisions of law, and under procedures approved by the Attorney General, when the Director deems such action necessary to the successful performance of the functions of the Agency or to protect the security of Agency activities."

Number 26: We believe procurement authority is sufficiently covered in Section 422. There is a procedural problem with subsection 422b. This paragraph provides that the Director can waive compliance with the Army Services Procurement Regulations, but that he must report any waiver to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, together with reasons for exercising such waiver. It is not clear if a report is required prior to or subsequent to exercising the waiver, nor

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is the format or procedure for reporting understood. Proposed bill S. 1264, The Federal Acquisition Act of 1977 (Chiles Act), will replace the current Armed Services Procurement Act contained in Title 10, U.S.C. It appears that Section 422 was written without considering the impact of S. 1264.


Number 27: With reference to paragraphs 139 and 422 (c) - this is difficult to assess without knowing what the procedures approved by the Attorney General will be. Procurement and contracting activities could be impeded if the Director is to obtain an approval each time.

Number 31: We agree to the suggested revision to Section 425.

Number 35: We do not agree that the appointment of the General Counsel in paragraph 426 (a) should be subject to the advice and consent of the Senate for reasons stated in the issues paper.

Number 39: We agree with the proposed language change to paragraph 431 (c)(1).

3. We purposely did not comment on number 19, since we are confronted with the limits of general authority and the finite application of specific prohibition or permission to carry out the myriad of functions inherent in the logistics mission. For example, the authority to procure as contained in Section 422 carries with it the necessity to store, account for, transport and dispose of property within the confines of existing law or under such waiver(s) as may be granted. We choose to let Section 421 stand as written except as noted elsewhere in this paper. Any attempt to enumerate each separate responsibility could encumber any action with an unnecessary burden of waiver.


for James H. McDonald

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